

CHAPTER 7: NATURAL RESOURCE LANDS ELEMENT

INTRODUCTION

The natural resource based agriculture and timber industries influenced the historical development pattern of the City of North Bend and played a significant role in the economic growth of the community. Beginning with the Meadowbrook hop farm in 1885 and continuing with logging, sawmills, dairies, truck farms, and ranches, through the present, the agricultural and forest lands have proven their importance to the City of North Bend. The protection of agricultural and forest land for economic and aesthetic reasons is a goal of the State of Washington, King County, and the City of North Bend.

North Bend's beautiful physical setting and the high quality of its natural environment make it an attractive location in which to live. Maintaining the visual quality of the dominant wooded landscape of Rattlesnake Ridge and the surrounding Upper Snoqualmie Valley floor, while conserving the views of Mount Si are important in sustaining the rural character of North Bend. The natural resource lands (agricultural and forest) directly contribute to the high quality of life enjoyed by the citizens of North Bend by providing bountiful aesthetic, recreational, and economic benefits. The protection of these natural resource lands is essential if the residents of North Bend are to maintain the present character of the community.

The City of North Bend Resolution No. 773 identified that one of the top priorities of amending the Comprehensive Plan and Development Regulations is to provide greater agricultural land use protection.

NATURAL RESOURCE LANDS PROTECTION

The protection and management of natural resource lands both inside and outside the North Bend Urban Growth Area (UGA) is a concern of the City of North Bend. The rural character of North Bend is directly linked to the natural resource lands and the rural character they provide.

The Growth Management Act (GMA) in RCW 36.70A.020(8) addresses Natural Resource Industries in planning goal # 8 in order to:

Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

RCW 36.70A.170 directs the City to designate both agricultural land and forest land properties that are not already characterized by urban growth and which have long-term significance for commercial resource production. RCW 36.70A.060 directs the City to adopt development regulations to assure protection of lands designated under RCW 36.70A.170, including lands within five hundred feet of such lands.

King County Countywide Planning Policies (CWPP) provide local direction to implement the GMA mandate for protection of resource lands. Following is a paraphrased listing of the CWPP's with direct applicability to North Bend in 2004. The policy number of each referenced policy is cited. Other

CWPP's may be indirectly applicable to North Bend and the CWPP's may be revised in the future. The full list of CWPP's is available on the King County DDES website at <http://www.metrokc.gov/ddes/compplan/CPP-current.pdf>

At the highest level, adoption of the City's Urban Growth Area's protects resource lands by preventing "urban" growth outside of the UGA (FW-6). Jurisdictions are to minimize impacts to resource lands outside of their jurisdiction (LU-1), preserve resource lands inside their jurisdiction and adopt a Transfer of Development Rights (TDR) program for designated resource lands (LU-2). Designated Agricultural Production District Lands shall not be annexed by Cities (LU-2A) and existing mineral extraction or processing sites can only be annexed if there are policies in place for their protection (LU-3). Finally, all jurisdictions shall encourage compatible land uses adjacent to natural resource areas to minimize conflicts, require a 500 foot notice as required by RCW 36.70A (LU-4), and require resource operation to implement "best management practices" (LU-5).

A case law decision made by the Central Puget Sound Growth Management Hearings Board (CPSGMHB) in *Green Valley v. King County* (Case No. 98-3-0008) states that the Growth Management Act imposes an affirmative duty on local governments to designate and conserve agricultural lands to assure the maintenance and enhancement of the agricultural resource industry.

The City of North Bend has taken a variety of steps to protect resource lands including defining farm and forestry, adopting a right to farm and forestry ordinance, require a notice on title of farm or forestry operations at the time of development approval within 500 feet of the operation, require buffers around farms designated in the Comprehensive Plan, establish an urban separator overlay zone to protect farms, and create a transfer of development rights program to implement the urban separator overlay zone.

RCW 36.70A.030 (10) defines long-term commercial significance as:

The growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

CITY OF NORTH BEND AGRICULTURAL AND FOREST LAND DEFINITIONS

The definitions for both agricultural land and forest land characterize the land use and the long-term commercial productivity of the agricultural or forestry activity on the land.

Agricultural Land

Agricultural land is that land meeting any one or more of the following definitions: (1) Land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production, and (2) Land that is currently in use for agriculture as evidenced by its current enrollment in the open space taxation program pursuant to RCW 84.34.

To define agricultural land productivity, the City of North Bend uses the following criteria:

- (1) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:
 - (a) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;
 - (b) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or
 - (c) Other similar commercial activities as may be established by rule.
- (2) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:
 - (a) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993, and
 - (b) On; or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter,
- (3) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:
 - (a) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and
 - (b) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter.

Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as “farm and agricultural lands”; or the land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: 1) the housing or residence is on or contiguous to the classified parcel; and 2) the use of the housing or the residence is integral to the use of the classified land for agricultural purposes.

Forest Land

Land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

To define forest land productivity, the City of North Bend uses the following criteria from RCW 84.34.020:

“Timber land” means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of forest crops for commercial purposes. A timber management plan shall be filed with the County legislature authority at the time (a) an application is made for classification as timber land pursuant to this chapter or (b) when a sale or transfer of timber land occurs and a notice of classification continuance is signed. Timberland means the land only.

AGRICULTURAL LANDS IN THE NORTH BEND UGA

Map 7-2 shows existing prime farmland soils with the best potential to be used for agriculture as identified by the USDA Soil Conservation Service Survey of the Snoqualmie Pass Area.

An examination of **Map 7-2** shows that most of the land inside the present City limits, with the exception of the foothills to Rattlesnake Ridge, is classified as prime farmland by the USDA Soil Survey. Much of the agricultural land in the City has been converted from commercial production of agricultural products and is now characterized by urban growth. However, numerous pastures, fields, and including the designated Stringfellow Farm still exist adjoining the North Bend Urban Growth Area. The Stringfellow Farm adjoining the UGA to the east of the Silver Creek neighborhood is the designated farm shown on **Map 7-1**.

The Stringfellow Farm, located south and east of the Silver Creek neighborhood, is presently preserved in the open space taxation program pursuant to RCW 84.34. Mr. Stringfellow has repeatedly advised the City of his concerns that development inside the Urban Growth Area will result in incompatible land uses that will preclude the long-term operation of his farming operation. Potential conflicts that he has identified from his beef ranching operation include air borne lime dust, noise, odors, and sights of animals being slaughtered. To protect his operation he has advised the City to consider adopting protections including a right to farm ordinance, placing a notice on title of land developing adjacent to the farm advising of the farming operation, and revised zoning on lands adjacent to the farm to ensure development of compatible land uses and densities.

FOREST LANDS AROUND THE NORTH BEND UGA

There are no forest resource lands designated by the City of North Bend. The King County Comprehensive Plan designates Forest Production Districts where the primary use is commercial forestry. Lands within the King County Forest Production District shall remain in large parcels and in ownership conducive to forestry. Existing forest land designated by King County adjacent to the North Bend UGA is shown on **Map 7-3**.

RIGHT TO PRACTICE FARMING AND FORESTRY

A right to farm or right to forestry ordinance is a state law or local ordinance that protects farming and forestry operations from private or public nuisance lawsuits. A private nuisance involves actions that interfere with the reasonable use or enjoyment of an individual’s property. A public nuisance involves actions that threaten the public health, safety, or welfare or damages community resources. The Right to

1 Farm and Right to Forestry ordinances are intended to protect agricultural and forest lands as an element
2 of rural character and natural resources production potential within the North Bend UGA.

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4 The Right to Farm and Right to Forestry ordinances help to educate residents about the needs of
5 commercial agriculture and forestry and reassures farmers and foresters that the City of North Bend
6 supports farm and forestry operations. The ordinance serves as a formal policy statement that agriculture
7 and forestry is a valuable part of the City of North Bend's economy and culture. Adoption of a Right to
8 Farm / Right to Forestry ordinance in North Bend would: (1) strengthen the legal position of farmers and
9 foresters when neighbors sue them for private nuisance, (2) protect farmers and foresters from anti-
10 nuisance ordinances and unreasonable controls on farming and forestry operations, (3) apply a city-wide
11 right to farm / right to forest ordinance to any property meeting the City of North Bend definition of
12 agricultural land (farm) or forest land, (4) protect existing agricultural land (farm) and forest land, (5)
13 provide an opportunity for establishing future farms, (6) require that a notice be placed on the deed to all
14 properties adjacent to designated agricultural or forest areas as shown on **Map 7-1** and **Map 7-3**,
15 cautioning potential buyers that they may experience noise, dust, odors and other inconveniences due to
16 farming and forestry operations.

17 18 **NOTICE ON TITLE FOR AGRICULTURAL AND FOREST LANDS**

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20 The purpose of the Notice on Title is to implement notice provisions and set forth the contents of such
21 notice to be placed upon the title of property that is adjacent to agricultural or forest land uses. The
22 Notice on Title would show the presence of agricultural or forest land activities on an adjoining property.
23 The notice provides a tool by which any property owner would be notified of a potentially incompatible
24 situation. The Notice on Title of a property would show the owner the potential for limitations on
25 development due to the agricultural or forest activities on an adjacent parcel. The notice would be
26 applied to any property adjoining designated agricultural or forest land in the Comprehensive Plan. The
27 Stringfellow Farm as shown on **Map 7-1** is the designated agricultural land. The Notice on Title would
28 apply where a property is within a 500-foot buffer of an adjoining agricultural or forest land activity.
29 The filing of the notice would be required by a developer as a condition of permit approval upon
30 development of any property that is adjoining agricultural or forest land.

31 32 **APPLICATION OF BUFFERS TO AGRICULTURAL LANDS**

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34 The GMA encourages the conservation of productive agricultural lands and discourages development of
35 incompatible uses. The City of North Bend should use buffers as a method of protecting productive
36 agricultural lands. The application of buffers citywide provides a uniform method of protecting
37 incompatible land uses adjacent to agricultural lands throughout the North Bend Urban Growth Area.
38 The City is requiring a 150-foot wide buffer area that will include landscaping in combination with
39 berms or fences to create a visual screen of the farm area. In addition, the buffer area can include any
40 combination of the following: right of ways, access routes, recreation areas (excluding play areas),
41 parking, outdoor storage, utilities including drainage systems, existing non-conforming occupied
42 structures or non-occupied accessory structures, provided the landscape visual screen is accomplished.
43 Existing occupied structures located in the 150 foot buffer area will be treated as non-conforming uses
44 and regulated under Chapter 18.30 of the North Bend Municipal Code. Areas to be buffered include
45 existing farm operations as designated on **Map 7-1** in the Comprehensive Plan. Additions or deletion of
46 a farm area will be accomplished through an amendment to the Comprehensive Plan.

NATURAL RESOURCE LANDS ELEMENT - GOALS AND POLICIES

Natural Resource Lands - Goal 1: Protect Existing Resource Lands.

Policies:

- NRL - 1.1 Work with King County to develop incentives that help retain agriculture and forest related land uses within the North Bend Urban Growth Area.
- NRL – 1.2 Create criteria for resource lands that lie within the North Bend Urban Growth Area that acknowledge the City of North Bend’s interest in retaining agriculture or forestland uses.
- NRL – 1.3 Adopt definitions of agriculture and forest lands consistent with state law as presently written or as modified in the future.

Natural Resource Lands - Goal 2: Establish Right-to-Farm and Forestry Policy.

Policies:

- NRL – 2.1: Establish Right-to-Farm and Forestry ordinance to support maintenance of natural resource lands within and around the North Bend UGA and protect farm and forestry operations from nuisance laws.

Natural Resource Lands - Goal 3: Establish a Notice on Title Policy.

Policies:

- NRL – 3.1 Require Notice on Title of properties adjacent to any agricultural or forest lands to notify owners of potentially incompatible activities at the time of development approval.

Natural Resource Lands – Goal 4: Establish a Landscape and Use Buffer on Property Adjoining Agricultural Operations.

Policies:

- NRL – 4.1 Require landscaping and the use of buffers on properties adjacent to any agricultural lands at the time of development approval to protect agricultural activities occurring on the resource land from potentially incompatible future urban land uses.

NRL - Goal 5: Work with the County to encourage retention of a productive agricultural, pasture and forestlands that lie within the City’s Potential Impact Area.

Policies:

- NRL - 5.1 Encourage the County to limit development by retaining farming and grazing activities in areas outside of the UGA to help retain the area's historic rural setting.
- NRL - 5.2 Encourage the County to create incentives to set aside productive agricultural lands in order to help prevent development of these areas.

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NRL - 5.3 Encourage the County to define setbacks, buffers, and other land use controls to encourage continuation of existing agricultural pursuits.

NRL - 5.4 Establish criteria for the review of development proposals under review by King County but within the City's designated UGA and joint planning areas, and work with the County to coordinate such reviews.

NRL - 5.5 Seek opportunities for City-County cooperative acquisition, development or shared maintenance of key sites that provide scenic and recreational benefits for City Residents.